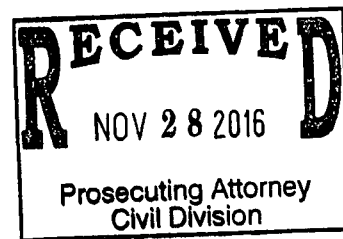


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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

BY AP
DEPUTY



No. 49023-4-II

COURT OF APPEALS
DIVISION II
OF THE STATE OF WASHINGTON

AMENDED OPENING BRIEF ON COLLATERAL ATTACK ON SUMMARY JUDGMENT

David Arthur Darby, Appellant Petitioner,

v.

Clark County, a political subdivision of the
State of Washington and Individuals Acting
in their official capacity for the County of
Clark are the Following:

Greg Kimsey d.b.a. Clark County Auditor
Doug Lasher d.b.a. Clark County Treasurer
Peter Van Nortwick d.b.a. Clark County assessor
David Madore d.b.a. Clark County Commissioner
Edward L. Barnes d.b.a. Clark County Commissioner
Anthony Golick d.b.a. Clark County Prosecutor
Taylor R. Hallvik d.b.a. Clark County Deputy Pros.

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1. Table of Authorities

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- B. Anastasoff Vs. United States, 223 F.3d 898(8th Cir. 2000)
- C. Trinsey Vs. Pagliaro, D.C. Pa.1964, 229 F. Supp. 647
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- E. Jones Vs. General Elec. Co.,87 F.3d 209, 211 (7th Cir. 1996)
- F. Gonzales v. Buist, (04/01/12) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463
- G. Holt v. United States, (10/31/10) 218 U.S. 245, 54 L. Ed. 1021, 31 S. Ct. 2, licable
- H. Kowalski v. Tesmer,543 U.S. 125,128-29,125 S.Ct.564,160 L.Ed.2d 519(2004)
- I. Warth v. Seldin,422 U.S.490,498, 95 S.Ct 2197, 45 L.Ed.2d 343 (1975)
- J. Valley Forge Christian Coll. V. Am. United for Separation of church and state,454,U.S. 46.4,472,102 S.Ct 752,70 L.Ed 700 (1982)
- K. Dunmore v. Unites States, 358 F.3d 1107, 1112 (9th Cir. 2004)

- L. Alejandro Vs. Deutsche Bank Trust Co. Ams., 44 So. 3d 1288, 1289 (Fla 4th DCA 2010)
- M. United States v. Lovasco. 431 U.S. 783, 97 S. Ct
- N. 1787 Constitution for the United States of America and it's attached Bill of Rights 1-10
- O. 1878 Constitution of the State of Washington.

2. Assignments of Error and Statements of the Case

- A. Trinsey Vs. Pagliaro, D.C. Pa.1964, 229 F. Supp. 647. The Judge ignored all cases cited such as this one. The precedence of cases cited are ignored.
- B. United States v. Lovasco. 431 U.S. 783, 97 S. Ct. The Judge ignored all cases cited as such this one. The precedence of cases cited are ignored.
- C. Pursuant to the orders from the Appeals court order on case 47285-6-II, David Arthur Darby was to refile case 12-2-02637-8 in SUPERIOR COURT which originally issued the Summary Judgment my. Of course I was put before the same judge as before who was JUDGE GONZALES. He ruled just as he had in the beginning. This turned out to be the same drain on money as before. I never expected JUDGE GONZALES to rule in my favor. He has told me that I should always have an attorney. So, now I am back before the original District II Appeals Court in Tacoma.
- D. This case has always been about the jurisdiction of the CORPORATE STATE OF WASHINGTON over a Private Natural Born Sovereign Man. Judge Gonzales did not require the CLARK COUNTY ATTORNEY to prove that the CORPORATE STATE OF WASHINGTON had jurisdiction over a Private Natural Born Sovereign Man as described in Article 2, Section 3 of the 1878 Constitution of the State of Washington. Judge Gonzales again turned his back on his oath of office to protect my Constitutional rights.

E. Judge Gonzales did not acknowledge the Private Sovereign Status of David Arthur Darby. Judge Gonzales did not require the CLARK COUNTY ATTORNEY to prove that the Corporate STATE OF WASHINGTON has Jurisdiction over a Private Natural Born Sovereign Man. By not acknowledging the correct status, Judge Gonzales did not follow his oath of office and the Constitution for the United States and the 1878 Constitution of the State of Washington. **This is an act of treason to both Constitutions.** The CORPORATION OF STATE OF WASHINGTON cannot deal with Private Citizens of Washington State. The reason being is that the Corporation of the STATE OF WASHINGTON is a fiction and can only deal with other fictions. David Arthur Darby on the other hand is a Private Natural born Sovereign Man. The CORPORATION OF STATE OF WASHINGTON does not distinguish between a fictitious person of the Corporation or one of the few Private Natural Born Sovereign Men. This is an unconstitutional over reach of the CORPORATION OF STATE OF WASHINGTON. The Statutes and Codes of the Corporation of State of Washington refer to the word person as being under the Jurisdiction of the CORPORATE STATE OF WASHINGTON. I, David Arthur Darby, have never been nor will I ever be referred to as a person. The Codes and statutes all refer to the word person but never defines it. Therefore, we must look at the law dictionary definition.

Person: "In law, man and **person** are not exactly-synonymous terms." *Bouvier's Law Dictionary*, 1856, 1 Bouv. Inst. N. 137.

"...not every human being is a **person**..." *Black's law Dictionary*, 4th ed. 1957 & 1968, p. 1300. Since the STATE OF WASHINGTON does not define the term, then it is up to David Arthur Darby to define for the courts convenience his status and provide the proof.

- F. Once Establishment of David Arthur Darby's Status has been offered and not rebutted then the next step was to establish under what jurisdiction David Arthur Darby is under. That can easily be determined. See Exhibit sent from the Superior Court on the 1878 Constitution of State of Washington, which is a certified copy of the one saved in the National Archives under Senate Document, Misc. 55, 50th Congress 2d. Session.
- G. On Page 2 of the Transcript, Since, I, David Arthur Darby am not an orator, I told Judge Gonzales that I would rely on my paperwork. On line 21. Then on line 24 Judge Gonzales makes a witness out of the County attorney and lets Mr. Hallvick testify without a swearing in. In fact the County Council can never be a witness. He can only bring forth sworn in expert witnesses and ask for testimony from an expert witness. (Trinsey Vs. Pagliaro). No witness was brought forward.
- H. I have given this court the case involving this later in this brief. All of my affidavits and briefs are all notarized and duly sworn in as witness documents.
- I. It is obvious to me, as a layman, that Judge Gonzales did not read my brief. What good is a brief if the judge is not going to take anything that I say as a Pro Se In Propria Persona. My paperwork should stand alone. My paperwork is the case. The law is all there that I have brought forth. Judge Gonzales ignored everything that I brought forward. Not one word is ever said about my evidence and law. Judge Gonzales again ignored his oath to the Constitutions.
- J. On Page 4 of the transcript, I am criticized for not bringing forth any relief. On line 4 the Prosecutor says that I do not articulate a factual or legal basis to support any relief. This

case was to void a judgement. It does not take a rocket scientist that the relief in this case is to void the judgment as it says on the cover page of this brief.

K. Page 4 line 12 of the transcript. It is amazing that the County Prosecutor does not believe in my Constitutional right to be heard in constitutional law as befits a Private Natural Born Sovereign Citizen of Washington State. In the Prosecutors own words; “and the COUNTY believes that Mr. Darby’s pleadings are an attempt to circumvent appellate rights that he has failed to pursue and has waived.” This is pure nonsense. My case is very well laid out and not one word did the COUNTY PROSECUTOR use to prove that I am wrong and that the 1878 Constitution of the State of Washington is wrong. This is his attempt to obfuscate the real problem. I have never waived my rights and the COUNTY ATTORNEY has never proved in court that I have waived any rights. It is the COUNTY ATTORNEY that will not accept my status as a Private Natural Born Sovereign and not subject to the CORPORATE STATE OF WASHINGTON statutes and codes. The STATE’S case is not following the constitutional law that is my right to invoke. In fact the prosecutor speaks about appellate rights. There is no such thing as appellate rights in a common law court as is my right to be tried in a common law court. See Article XV, Section 14 of the 1878 Constitution of the State of Washington. There are Constitutional rights. Appellate rights are part of the Commercial Corporate STATE OF WASHINGTON, which I am not a part of and I have expressed this point from the very first that I started this case. The prosecutor has never proven that my Declaration of Status as a Private Natural Born Sovereign Citizen of Washington State is wrong. Therefore, the prosecutor has never proved in law that the STATE OF WASHINGTON has the right to take tax titled property or take private titled property for non-payment of

illegal tax on Private Natural Born Sovereign Men/women according to the 1878 Constitution of the State of Washington, Articles 2, Section 3; Article 5, Sections 3 , 14, 15 , & 23; Article 12, Section 17; Article 15, Section 10 & 14. (See Page 8, Section O.)

L. Judge Gonzales in this case does not conform to settled law. *Trinsey Vs. Pagliaro* about letting the Prosecution be a witness and **In Re Haines**: Pro Se Litigants (Petitioner is a Pro Se Litigant) are held to less Stringent pleadings standards than BAR Registered Attorneys. Judge Gonzales does not let Pro Se litigants win no matter as far as I can find out. Every time I have been before Judge Gonzales he tells me to get an attorney. I was doomed to fail from the very beginning. I was sent to an Admiralty court where no common law nor constitutional law exists. Judge Gonzales does not know the previous cases or he chooses to disregard them. As far as Judge Gonzales is concerned, I as a Pro Se litigant must adhere to the civil rules that the Bar Attorneys follow. I am not a Bar attorney and do not have to be held to the strict rule of civil law.

M. Yes, (Page 5, line 1 of the transcript) I said that I stated on the record that I should not have listened to the person that I had consulted. That person had not filed some pleading that appeared with me in court. What Judge Gonzales did not know is that I intended to file an updated Affidavit of Criminal Complaint against Judge Gonzales and anyone else that is not following their oaths of office. I was cautioned not to add Judge Gonzales to it. That can be rectified at any time.

N. On Page 5, line 19 of the transcript Judge Gonzales mentioned the Common Law Grand Jury foreman and that I was not pleased. Judge Gonzales is correct, I was not pleased how Judge Gonzales treated the Grand Jury foreman. Judge Gonzales ran a Constitutional Common Law Grand Jury foreman out of the court with threats of arrest.

This is supposed to be Constitutional County, but what I have seen, the county runs rough shod over anything to do with constitutional law. By all rights my case should have gone to a grand jury before the summary judgment was made. We tried to do just that and the Judge would have none of it because he did not sit the grand jury. Judge Gonzales was afraid that he would lose control of the case if the Common Law Grand Jury heard the actual evidence in this case. Actually the Common Law Grand Jury had already heard the evidence and decided to remove the case from the Superior Court. Judge Gonzales was not going to let any of this get into the record. In fact that Common Law grand Jury had specifically told me not to be in court that day. They had already ruled that the Superior court did not have the authority to act in this case. The papers served on the Superior Court by the Common Law Jury foreman were transferred to the Appeals court.

O. Pursuant to the 1878 Constitution of the State of Washington, which is a contract or trust agreement with the people of Washington State, has never been terminated by the people. Therefore, the 1878 Constitution of the State of Washington is in full force to be used by the private sovereign free men of Washington State. The following articles were ignored by the CLARK COUNTY SUPERIOR COURT JUDGE GONZALES:

1. **Article 2, Section 3.** The people of the state, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the state,
2. **Article V, Section 3.** All persons are by nature free, and equally entitled to certain natural rights; among which are, those of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and seeking and obtaining

happiness. To secure these rights, governments are instituted, deriving their just powers from the consent of the governed.

3. **Article V, Section 14.** No bill of attainder, ex post facto law, or any law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises or immunities, shall be passed by the legislature.
4. **Article V, Section 15.** Private property shall not be taken or damaged for public use without just compensation; and no persons particular service shall be required without just payment therefor.
5. **Article V, Section 23.** All lands within the state are declared to be allodial, and feudal tenures, with all their incidents, are prohibited.....
6. **Article XII, Section 17.** Private property, shall not be taken or sold for the payment of the corporate debt of municipal corporations.
7. **Article XV, Section 10.** All patents or grants of land, made by the United States to settlers and purchasers of tide lands shall be ratified and confirmed by the state.
8. **Article XV, Section 14.** The common law of England - applicable to our conditions and circumstances, and not repugnant to, or inconsistent with, the constitution of the United States, or the constitution or laws of this state - shall be in full force, and the rule of decision in all courts in this state; but in the event of laws being passed, conferring rights or impairing obligations growing out of or founded upon principles of the civil and not the common law, then the rules of the civil law may be resorted to for the purpose of interpretation and decision.

Certified copy of 1878 Constitution of State of Washington, Which is a certified copy of the one saved in the National Archives under Senate Doc Misc. 55, 50th Congress 2d. Session is already submitted from the Superior Court.

If CLARK COUNTY SUPERIOR COURT JUDGE GONZALES had followed the Mandatory Judicial notice and ruled on the law and not technicalities we would not be here today. Therefore Judge Gonzales acted unconstitutionally and against his oath towards myself and this case and has committed, in my opinion, treason against the Private Natural Born Sovereigns of Washington State.

Argument

1. Judge Gonzales is not basing his verdict on the Constitutional issue that a private Citizen owns his own property. Judge Gonzales is basing his verdict on the codes and statutes of the Corporate STATE OF WASHINGTON that do not apply in this case. This case is based on the 1878 Constitution of the State of Washington. See the above Articles that pertain to Land Rights in the 1878 Constitution of the State of Washington.
2. Judge Gonzales has ignored Cases such as Parosa v. Tacoma, Johnson v. City of Spokane and Gerberding v. Munroe which the Supreme Court of Washington has upheld the premise that codes and statutes are not law. The 1878 Constitution of the State of Washington is the supreme law of Washington State. The fraudulent 1889 Corporate Constitution of the State of Washington does not pertain to the Private Natural Born Sovereign Citizens of Washington State.
3. Judge Gonzales has ignored the fact that David Arthur Darby is in fact a private Citizen of Washington State and not a public citizen of the STATE OF WASHINGTON, which

is a corporation. Since the STATE OF WASHINGTON is a corporation, then as a business the STATE OF WASHINGTON cannot force its corporate laws on the Private Natural Born Sovereign Citizens of Washington State. The STATE OF WASHINGTON Corporation must follow the rules of commerce, since they are a corporation. Being a Corporation, STATE OF WASHINGTON Corporation must prove that it has in its possession a signed notarized contract between the Corporate STATE OF WASHINGTON and the Private Citizen David Arthur Darby giving the STATE OF WASHINGTON jurisdiction and authority to commit theft of property in the name of the corporation STATE OF WASHINGTON. Neither Judge Gonzales nor the Prosecutor have addressed this subject and proceeded to force David Arthur Darby under the STATE OF WASHINGTON unconstitutional authority. (See the 1943 Clearfield Doctrine the explains this reasoning more eloquently than I.)

3. Statement of the Case

Petitioner followed the Appeals court requests. David Arthur Darby appealed back to the original SUPERIOR COURT JUDGE GONZALES. SUPERIOR COURT JUDGE GONZALES did as was expected. He confirmed the original summary judgement without discussing the law that this Pro Se Litigant In Propria Persona served on the court on the very first hearing and the appeal hearing. JUDGE GONZALES payed no attention to the fact that David Arthur Darby is a Private Natural Born Sovereign and should not be in this court of Admiralty when David Arthur Darby should be in a Common Law and Equity Court pursuant to Article XV, Section 14 of the 1878 Constitution of the State of Washington.

The Prosecutor Taylor Hallvik has never rebutted David Arthur Darby's evidence against the codes of the STATE OF WASHINGTON AND CLARK COUNTY. JUDGE GONZALES

accepted prosecutions assertions of codes but never considered David Arthur Darby's assertions that the COUNTY is wrong and that only the constitution is right in court. I, David Arthur Darby did not get a lawful hearing on the law that I put before the court. It is my opinion that since I have been before JUDGE GONZALES a few times in the past, JUDGE GONZALES does not give anyone that does not use a BAR ATTORNEY an honest hearing. Not one word from JUDGE GONZALES about all of the evidence that was served on the court showing that the STATE OF WASHINGTON AND CLARK COUNTY is wrong in ignoring the constitutional evidence that the David Arthur Darby has brought into court to prove that the STATE OF WASHINGTON CORPORATION is wrong. The STATE OF WASHINGTON is wrong when it taxes titled land and then steals the land from the titled land owner when the constitutional land owner refuses to pay unconstitutional taxes. Since all of above was ignored, there is no place in the record to refer to. If the Prosecutor and the Judge both ignore and do not mention this then I cannot be expected to refer to it.

The STATE OF WASHINGTON AND CLARK COUNTY does not recognize titled land pursuant to **Article V, Section 23 of the 1878 Constitution of the State of Washington**. Additionally the representatives of the STATE OF WASHINGTON and CLARK COUNTY are committing treason against the 1878 Constitution of the State of Washington and to the 1787 Constitution for the United States.

This is how the Superior Court essentially railroads the Pro Se litigant. As a Pro Se litigant I was intimidated by the Judge and assumed that the Judge read the evidence that I submitted. I am the Pro Se Litigant In Propria Persona and was told by the judge that I must follow the rules of the court just as any Bar Attorneys in his court would do. But, it was quite obvious that JUDGE GONZALES favors the prosecuting attorney in this type of case. The case was

dismissed on the grounds that the original summary judgement was correct and no law brought forth by myself was mentioned in Court nor in the dismissal documents. This Case is actually a Complaint for a Collateral Attack to Vacate a Void Order and Judgement of Foreclosure.

Dismissal Documents did not show what the case was about. The Documents in question have been ordered and should be in the hands of the Appeals court.

Washington State Court of Appeals Division Two is hereby placed on notice under the authority of the *supremacy and equal protection clauses of the United states Constitution and common law authorities* of Haines Vs. Kerner, 404 U.S. 519, Platsky Vs. C.I.A., 953 F.2d 25, and Anastasoff Vs. United States, 223 F.3d 898(8th Cir.07/25/ 2001).

1. In Re Haines: Pro Se Litigants (Petitioner is a Pro Se Litigant) are held to less Stringent pleadings standards than BAR Registered Attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims.
2. In re Platsky: court errs if court dismisses the pro se litigant (Petitioner is a Pro Se Litigant) with instruction of how pleadings are deficient and how to repair the pleadings.
3. In re Anastasoff: litigants' Constitutional rights are violated when courts depart from precedent where parties are similarly situated. All litigant have a constitutional right to have their claims adjudicated according the rule of precedent. See Anastasoff Vs. United States, 223 F.3d 898(8th Cir. 2000). Statements of Counsel, in briefs or oral arguments are not sufficient for motion to dismiss or for summary judgment, Trinsey Vs. Pagliaro, D.C. Pa.1964, 229 F. Supp. 647. In re Stac Elecs. Sec. Litig., 89 F.3d 1399,1403(9th Cir.1996) ;Jones Vs. General Elec. Co.,87 F.3d 209, 211 (7th Cir. 1996)

4. Under no possible view, however, of the findings we are considering can they be held to constitute a compliance with the statute, since they merely embody conflicting *statements of counsel* concerning the facts as they suppose them to be and their appreciation of the law which they deem applicable, there being, therefore, no attempt whatever to state the ultimate facts by a consideration of which we would be able to conclude whether or not the judgment was warranted. *Gonzales v. Buist*, (04/01/12) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463. No instruction was asked, but, as we have said, the judge told the jury that they were to regard only the evidence admitted by him, not *statements of counsel*, *Holt v. United States*, (10/31/10) 218 U.S. 245, 54 L. Ed. 1021, 31 S. Ct. 2, licable (“[a]n action must be prosecuted in the real party in interest.”.)The standing doctrine “involves both constitutional limitations on federal-court jurisdiction and prudential limitations on its exercise. *Kowalski v. Tesmer*, 543 U.S. 125, 128-29, 125 S.Ct. 564, 160 L.Ed.2d 519(2004)(quoting *Warth v. Seldin*, 422 U.S. 490, 498, 95 S.Ct 2197, 45 L.Ed.2d 343 (1975). Constitution Standing under Article III requires, at a minimum, that a party must have suffered some action or threatened injury as a result of the defendant’s conduct, that the injury be traced to the challenged action, and that it is likely to be redressed by favorable decision.
5. *Valley Forge Christian Coll. V. Am. United for Separation of church and state*, 454, U.S. 46.4, 472, 102 S.Ct 752, 70 L.Ed 700 (1982) (citations and internal quotations omitted). Beyond the Article III requirements of injury in fact, causation, and redressibility, the creditor must also have prudential standing, which is a judicially-created set of principles that places limits on the class of persons who may invoke the courts’ powers. *Warth v. Seldin*, 422 U.S. 490, 499, 95 S. Ct 2197, 45 L.ed. 2d 343

(1975)).As a prudential matter, a petitioner must assert “his own legal interests as the real party in interest”. (Dunmore v. Unites States, 358 F.3d 1107, 1112 (9th Cir. 2004), as found in Fed. R. Civ. P. 17, which provides “[a]n action must be prosecuted in the name of real party in interest.”).

6. The court of appeal cited Alejandro Vs. Deutsche Bank Trust Co. Ams.,44 So. 3d 1288,1289 (Fla 4th DCA 2010., (*The movant must disprove the affirmative defenses or show they are legally insufficient*) The court of appeal found the homeowners sufficiently pled the bank’s failure to satisfy condition precedent regarding pre-acceleration notice requirements of the mortgage, and court rejected the bank’s argument to the contrary.
7. *Defendants did not provided any sworn statement only* un-sworn statements based on evidence produced. Attorneys can’t testify. Statements of counsel in brief or in oral argument are not facts before the court. This finding of a continuing investigation, which forms the foundation of the majority opinion, comes from statements of counsel made during the appellate process. As we have said of other un-sworn statements which were not part of the record and therefore could not have been considered by the trial court: “Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case..”” United States v. Lovasco. 431 U.S. 783, 97 S. Ct. Statements of Counsel, in briefs or oral arguments are not sufficient for motion to dismiss or for summary judgment, Trinsey Vs. Pagliaro, D.C. Pa.1964, 229 F. Supp. 647.
8. Petitioner has provided sworn statements which is part of the record and therefore can be considered by the trial court: “Manifestly, [such statements] can be properly considered by us in the disposition of [a] case.” United States v. Lovasco. 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2d 752 (06/09/77).

9. Petitioner has provided sworn statements verification of and his document. I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true, correct, complete, and not misleading, (which are sworn testimony and are part of the court record)

10. Defendant's in this case have provided no competent fact witnesses in brief or oral arguments to bring forth any of the evidence that they have submitted in the record there is no evidence or Testimony to support Defendants claims.

4. True Status of Petitioner

David A Darby, Private Sovereign freeman domiciled in Republic of Washington State, and the continental The United States of America, within a nonmilitary occupied private estate not subject to the jurisdiction of the corporation of the "UNITED STATES," but instead, subject to the jurisdictions of "The *de jure* The United States of America and Sovereign State Private freeman, Pursuant to Article 2, Section 3 of 1878 Constitution of the State of Washington.

Without Prejudice Expressly Reserving All Liberties and All Rights. Without recourse. I declare under penalty of perjury and on my own commercial liability, under the laws of the State of Washington, that the foregoing is true, correct, complete, and not misleading, to the best of my knowledge, So Help Me GOD. (See Affidavit of Declaration of Status for David Arthur Darby Exhibit 1) (Affidavits have never been rebutted on the Federal or State Level, Therefore they stand as accepted and all courts must accept them as the truth.)

5. Introduction of Petitioner and the Law of the Private Sovereign

I, David Arthur Darby, Declare that this court must hear this case in Equity not Admiralty or any other law. I am not a Corporate citizen of the Corporate UNITED STATES, nor am I a

corporate citizen of the STATE OF WASHINGTON. I, therefore have the right to demand the law of the Constitution for the United States of America and my rights guaranteed by the 1878 Constitution of the State of Washington. I, David Arthur Darby, have terminated the contract with The CORPORATION OF THE UNITED STATES and STATE OF WASHINGTON through the Governor of STATE OF WASHINGTON pursuant to Declaration of Status (See Exhibit 1 Declaration of Status). I am now a private natural born sovereign of Washington State, with a lawful land patent duly declared, documented, publicly presented and witnessed. I am also a constitutional Citizen to the organic de jure Continental United States of America and its 1787 Constitution for the United States and the attached Bill of Rights 1 thru original 13th. I am not now nor have ever been a resident of WASHINGTON D.C. which is the only place in this country that the CORPORATION OF THE UNITED STATES has jurisdiction, unless there is a verified contract that proves there is a connection.

This case is completely embedded in the Precedence of Constitutional Law both Equity and to a lesser degree Common Law. Therefore, when we study *Cohens v. Virginia*, 19 U.S. 264 (1821), the U.S. Supreme Court case in which the court reaffirmed its right to review all state court judgments in cases arising under the federal Constitution or a law of the United States of America. The Judge or the Attorney commits treason to the Constitution when he goes against Precedence.

Equity Jurisprudence had its origin solely in the fact that law (at law/common law) and Equity were originally two distinct jurisdictions and was administered by separate tribunals. That original intent is not adapted to the current condition of the municipal law, which due to the Judicature Act has obliterated the external distinctions between Equity

and the law to all citizens that are part of the Corporations of the UNITED STATES AND STATE OF WASHINGTON. Since the inception of the Judicature Act of 1873/1875, the principles of Equity have, over time, have taken a back seat to the at law jurisdiction. As Justice Pomeroy stated in the preface to his Treatise on Equity Jurisprudence 1881:

"There has not, of course, been any conscious intentional abrogation or rejection of equity on the part of the courts. The tendency, however, has plainly and steadily been towards the giving an undue prominence and superiority to purely legal rules, and the ignoring, forgetting, or suppression of equitable notions."

"Even a partial loss of equity would be a fatal injury to the jurisprudence of a State. So far as equitable rules differ from those of the law, they are confessedly more just and righteous, and their disappearance would be a long step backward in the progress of civilization."

The Exclusive Jurisdiction of Equity has the far reaching and broad powers to grant a ruling that is fair, just and right no matter the situation at hand, whereas the law is narrow in its scope and limited in this ability. It is this major difference that creates the conflict between the two jurisdictions being administered in one court.

Mr. Bouvier, the author of the Bouvier's Law Dictionary, knew and understood Equity. In his book, "Institutes of American Law"¹ he had this to say:

"Law is nothing without equity, and equity is everything, even without Law. Those who perceive what is just and what is unjust only through the eyes of the law, never see it as well as those who behold it with the eyes of equity. Law may be looked upon, in some manner, as assistance for those who have a weak perception of right and wrong, in the same way that optical glasses, are useful for those who are shortsighted, or those whose visual organs are

¹ Institutes of American Law - 1882, Vol. 2, §. 3724, Para. 4

deficient. Equity, in its true and genuine meaning, is the soul and spirit of the law; positive law is construed, and rational law is made by it."

The Utah Supreme Court also recognizes that *"when there is a conflict between the rules of equity and the rules of common law (at law) in reference to the same matter, the rules of equity prevail."*²

BE IT RESOLVED, I, David Arthur Darby, do hereby by my Deed of a purely equitable nature grant to this case and court subject matter and in personam jurisdiction under the rules, principles and body of jurisprudence of equity, and do withdraw from the general misconstrued venue of martial, public policy, being at Law, and do re-deposit into special confidence/Equity Jurisdiction as a special deposit, which reflects the true intent of the Petitioner, the Grantor and Third Party Intervener only real party in interest in relation to Defendant in this cause.

Therefore, this Court is granted the broad, substantive, equitable power and authority to adjudicate this instant case based on Equitable Principles and ancient Equity Jurisprudence, not purely legal in the enlarged, at law jurisdiction.

This case is to be adjudicated cognizing the equities between the parties, decreeing only that which is fair, just, right and in good conscience. Any non-martial law—statute, or case cites—used in this case are to be broadly interpreted to include the equitable spirit of the law/statute/case cite, not limited to the letter only. If any law, statute or case cite is presented to this court that is legal in both nature and character, it is to be ignored by the court due to the conflict between law and equity that would be created.

² Stoker v. Stoker, 616 P. 2d 590 - Utah: Supreme Court 1980; Union Ski Company v. Union Plastics Corporation, 548 P. 2d 1257 - Utah: Supreme Court 1976; Union Pacific Railroad Company v. Trustees, Inc., 329 P. 2d 398 - Utah: Supreme Court 1958; Utah Code 68-3-2(4)

6. CONCLUSION

Wherefore, David Arthur Darby Petitioner moves this court for an order vacating a void order and judgement of foreclosure.

1. An order granting to vacate a void Order and Judgment of Foreclosure.
2. If the court rules against me, please provide findings of fact and conclusions of law, competent fact witness's, authenticated evidence and/or Sworn Testimony to support STATES' claims and their names. I need these to proceed to the Supreme Court of the United States pursuant to Article III section 2.

I, David Arthur Darby, anxiously await the Plaintiff's Rebuttal brief and to see how much Constitutional law he will rebut in this case. It is hard to rebut what is stated in the 1878 Constitution of the State of Washington. The law is laid out and settled since 1878. To Rebut this Brief the COUNTY'S ATTORNEY Hallvik must prove that I am a person of CORPORATION OF STATE OF WASHINGTON. Therefore he must somehow figure How to rebut the Affidavit Sent to the President of the UNITED STATES AND THE GOVERNOR OF WASHINGTON STATE. Rebuttal period has long past, besides he was not a party to the Affidavit of Declaration of Status. The President of the UNITED STATES did not rebut my affidavit through his Attorney General.

7. Relief

Since, the COUNTY Attorney has been worried in the past about not spelling out relief, I David Arthur Darby am spelling out what harm CLARK COUNTY acting under the authority of the Corporate STATE OF WASHINGTON unlawful codes and statutes has personally damaged

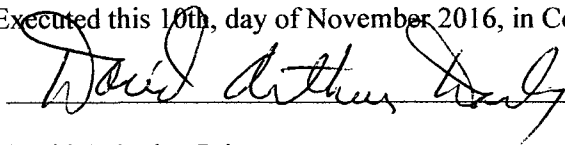
David Arthur Darby. David Arthur Darby should be made whole again. All monies taken or lost as a result of this miscarriage of justice should be returned to him as follows:

1. All CLARK COUNTY collected tax money that Clark County Treasurer Lasher has forced David Arthur Darby to pay over the years will be returned.
2. All COURT COSTS collected from David Arthur Darby's quest for justice in all cases pertaining to his land is to be returned to him. This will include all STATE AND FEDERAL cases.
3. Since this case has been going on for 10 years and David Arthur Darby's business was closed down because of the litigation process. Clark County is to pay David Arthur \$100,000 per year for that 10 year period of time that he has been fighting for his land. That would be a sum of \$1,000,000.
4. Since the SUPERIOR COURT would not delay David Arthur Darby's removal from the property. Then the SUPERIOR COURT and CLARK COUNTY owes the amount of money lost in the forced sale at bargain prices of all Jaguar car Parts, American car parts and Autos in David Arthur Darby's possession at the time of Summary Judgement.
5. All Lease money that David Arthur Darby had to pay the winning bidder in the auction of David Arthur Darby's land will be returned to him by the COUNTY, since the COUNTY is the one that instigated this whole problem from the very beginning.
6. David Arthur Darby's land will be removed from the CLARK COUNTY tax rolls. The land will be listed as titled land and David Arthur Darby as the present holder of the Land Patent.
7. The Appeals court will confirm that David Arthur Darby is a Private Natural Born Sovereign Citizen of Washington State.

VERIFICATION

I, **David A Darby Private Natural Born Sovereign** Washington State Citizen pursuant to Article 2, Section 3 of 1878 Constitution of the State of Washington for the Republic of Washington State, am the Appellant Petitioner in the above-entitled action and I have read the above **Amended Brief for the Appeals Court Cause # 49023-4-II**. I am competent to testify to the matters stated herein and I have personal knowledge of the matters stated herein except as to those matters stated upon belief or information and, as to those matters, I believe them to be true. I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true, correct, complete, and not misleading.

Executed this 10th day of November 2016, in County of Clark, State of Washington.




David A Darby, Private
Private Sovereign State Citizen, Pursuant to Article 2, Section 3
of 1878 Constitution of the State of Washington for the
Republic of Washington State
General P.O. Box 772 Amboy, Washington
Zip exempt (Not Federal District)

[STATE] Washington) s.s.:

[COUNTY] Clark)

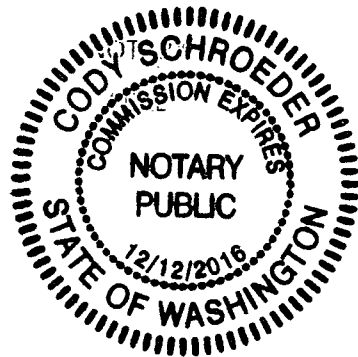
On this 28th day of November, 2016,

The above signatory appears before me personally with picture ID
and executes the forgoing instrument and acknowledges this to be their free act and deed.



Notary Public

My Commission Expires: 12/12/16



FILED
COURT OF APPEALS
DIVISION II

2016 NOV 30 AM 11:06

STATE OF WASHINGTON

BY AD
DEPUTY

PROOF OF PERSONAL SERVICE

Case name(s): David A. Darby vs Clark County

Case Number(s): Amended Appeals Court Cause # 49023-4-II

1. At the time of service I was at least 18 years of age and not a party to this legal action.
My mail location is: PO Box 1681; Portland, Oregon 97207

2. I personally delivered the following document(s) as identified here: Amended Opening Brief.

3. I personally delivered the document(s) identified above as follows:

Person served: Taylor Hallvik Prosecuting Attorney

Address where delivered: 1300 Franklin St. Suite 380

Date: November 28th 2016

Person served: Taylor Hallvik for the County

Address where delivered: 1300 Franklin St. Second floor

Date: November 28th 2016

[] Names and addresses of additional persons served and delivery dates and times are listed on attached page (identifying attachment at the top of the page).

I declare under the penalty of perjury, under the laws of the state of Washington, under penalty of bearing false witness pursuant to the Common Law and our God-Source Creator, that the foregoing is true, correct and not misleading.

Dated: 28th November 2016

DAQUINO
Print name

[Signature]
Signature

See Attached Front Pages of documents served with acceptance stamps.